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Appl. No. 10/731,046
Amdt. Dated August 22, 2006
Reply to Final Office action mailed June 2, 2006

REMARKS:

The Examiner rejected Claims 1, 2, 10, 12, and 19 under 35 U.S.C. 103(a) as being unpatentable over Downey in view of Koppenberg.

The applicant has further amended independent Claim 1 to include the limitation of original Claim 10 that the first set of tamper proof hardware requires a first tool for removal, and the second set of tamper proof hardware requires a different second tool for removal.

The Applicant respectfully submits that the cited prior art of Downey and Koppenberg, taken as a whole, does not suggest the modifications of the present application to a person of ordinary skill in the art, and repeats the arguments previously presented.

The Applicant respectfully submits that there is nowhere in Koppenberg any reference to the hardware being tamper resistant, as set out in the claims and as described at paragraph [0021]:

"The inside security screws 22 are countersunk into the inside door 20 so as to be flush with the outer face 26 of the inside door 20, and have a head that can only be engaged by a non-standard tool that is not readily available to unauthorized personnel. Such security screws are known in different configurations that require various different tools for removal. The inside door 20 is preferably aluminum which is strong and light, and the inside security screws 22 or like hardware are made from stainless steel or brass that will not oxidize when in contact with the aluminum of the columbarium structure 2."

The Applicant respectfully submits that all limitations in the claims must be considered when assessing obviousness. In addition, there is no suggestion in Koppenberg that the configuration of the hardware is for any purpose except to hold the adjustment mechanism in place in order to function. There is no suggestion that the hardware of Koppenberg would enhance the securement of the door of Downey, since it would be presumed that the inner wall 23 of Downey is satisfactorily secured in some manner, and the attachment thereof is not an issue or problem addressed in any way in Downey.

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The Applicant respectfully submits that neither the cited prior art of Downey or Koppenberg addresses the problem of security addressed by the present application, and therefore there is no basis for combining the references. Nothing in either patent suggests that any steps should be taken to prevent the doors from being removed by un-authorized persons, and there would therefore be no reason to modify the inner door attachment of Downey in any way.

In view of the above the Applicant respectfully submits that neither Downey nor Koppenberg teach the problem of un-authorized entry to columbarium niches, nor its source in the fact that the doors of such niches are often breached by vandals and like un-authorized persons. The present independent Claim 1 addresses that problem by providing a columbarium apparatus with:

“.....an inside door configured to cover the open end of the niche and attached to the columbarium structure by a first set of tamper resistant hardware;

an outside door configured to cover the inside door and attached to the columbarium structure by a second set of tamper resistant hardware such that an inner face of the outside door is supported by an outer face of the inside door:

wherein the first set of tamper proof hardware is concealed by the outside door when the outside door is installed;

wherein the first set of tamper proof hardware requires a first tool for removal, and wherein the second set of tamper proof hardware requires a different second tool for removal.”

And in independent Claim 12 by providing a columbarium apparatus with:

“.....an inside door configured to cover the open end of the at least one niche and attached to the columbarium structure by a first set of tamper resistant hardware;

an outside door configured to cover the inside door and conceal the first set of tamper proof hardware, and attached to the columbarium structure by a second set of tamper resistant hardware such that an inner face of the outer door is supported by an outer face of the inside door,.....;

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wherein the first set of tamper proof hardware requires a first tool for removal, and wherein the second set of tamper proof hardware requires a different second tool for removal."

In the Applicant's claims, any unauthorized person would be foiled in the first place by visible tamper resistant hardware, and if the outer door was removed, he would be confronted by an inner door with another set of tamper resistant hardware that was designed for removal by a tool different from that required to remove the outer door. The Applicant respectfully submits that this configuration is not present or suggested in the prior art.

The Applicant's claims further enhance security against un-authorized entry by supporting the outer door with the inner door to make it more difficult to breach the outer door. In dependent Claims 5 and 16 the Applicant has added the limitation of a resilient material between the inner and outer doors to improve this support.

The Examiner has cited the disclosure of Snow as disclosing a resilient O-ring between the inner substrate and the outer door to seal the outer door. The Applicant repeats the arguments previously presented, and further respectfully submits that while the Examiner has correctly stated that Snow shows a resilient material being used as a sealing member, the Examiner has not indicated in any way how these sealing properties would suggest to a person skilled in the art that a resilient material would be used as claimed.

The Applicant therefore respectfully submits that with respect to the claims as amended and submitted herewith, a prima facie case for obviousness has not been demonstrated by the Examiner, and requests that the rejections be withdrawn.

Applicant has made an earnest effort to be fully responsive to the Examiner's objections and believes that Claims 1-7 and 12-19, as amended herein, are in condition for allowance. The Applicant solicits the allowance of Claims 1-7 and 12-19.

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Authorization is hereby given by the undersigned to charge the small entity fee for a Request for Continued Examination of \$395.00 to Deposit Account No. 02-3979. Should there be any additional fees for this application authorization is also hereby given to charge any additional fees or credit any overcharges pertaining to the prosecution of this matter to Deposit Account No. 02-3979.

Respectfully submitted,

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